

HON. RON PAUL OF TEXAS BEFORE THE US HOUSE OF REPRESENTATIVES November 10, 2005 Free Speech and Dietary Supplements

Mr. Speaker, I rise to introduce the Health Freedom Protection Act. This bill restores the First Amendment rights of consumers to receive truthful information regarding the benefits of foods and dietary supplements by codifying the First Amendment standards used by federal courts to strike down the Food and Drug Administration (FDA) efforts to censor truthful health claims. The Health Freedom Protection Act also stops the Federal Trade Commissions (FTC) from censoring truthful health care claims.

The American people have made it clear they do not want the federal government to interfere with their access to dietary supplements, yet the FDA and the FTC continue to engage in heavy-handed attempts to restrict such access. The FDA continues to frustrate consumers' efforts to learn how they can improve their health even after Congress, responding to a record number of constituents' comments, passed the Dietary Supplement and Health and Education Act of 1994 (DSHEA). FDA bureaucrats are so determined to frustrate consumer access to truthful information that they are even evading their duty to comply with four federal court decisions vindicating consumers' First Amendment rights to discover the health benefits of foods and dietary supplements.

FDA bureaucrats have even refused to abide by the DSHEA section allowing the public to have access to scientific articles and publications regarding the role of nutrients in protecting against diseases by claiming that every article concerning this topic is evidence of intent to sell a drug.

Because of the FDA's censorship of truthful health claims, millions of Americans may suffer with diseases and other health care problems they may have avoided by using dietary supplements. For example, the FDA prohibited consumers from learning how folic acid reduces the risk of neural tube defects for four years after the Centers for Disease Control and Prevention recommended every woman of childbearing age take folic acid supplements to reduce neural tube defects. This FDA action contributed to an estimated 10,000 cases of preventable neural tube defects! The FDA also continues to prohibit consumers from learning about the scientific evidence that glucosamine and chondroitin sulfate are effective in the treatment of

osteoarthritis; that omega-3 fatty acids may reduce the risk of sudden death heart attack; and that calcium may reduce the risk of bone fractures.

The Health Freedom Protection Act will force the FDA to at last comply with the commands of Congress, the First Amendment, and the American people by codifying the First Amendment standards adopted by the federal courts. Specifically, the Health Freedom Protection Act stops the FDA from censoring truthful claims about the curative, mitigative, or preventative effects of dietary supplements, and adopts the federal court's suggested use of disclaimers as an alternative to censorship. The Health Freedom Protection Act also stops the FDA from prohibiting the distribution of scientific articles and publications regarding the role of nutrients in protecting against disease.

This legislation also addresses the FTC's violations of the First Amendment. Under traditional First Amendment jurisprudence, the federal government bears the burden of proving an advertising statement false before censoring that statement. However, the FTC has reversed the standard in the case of dietary supplements by requiring supplement manufactures to satisfy an unobtainable standard of proof that their statement is true. The FTC's standards are blocking innovation in the marketplace.

The Health Freedom Protection Act requires the government bear the burden of proving that speech could be censored. This is how it should be in a free, dynamic society. The bill also requires that the FTC warn parties that their advertising is false and give them a chance to correct their mistakes.

Mr. Speaker, if we are serious about putting people in charge of their health care, then shouldn't we stop federal bureaucrats from preventing Americans from learning about simple ways to improve their health. I therefore call on my colleagues to stand up for good health care and the First Amendment by cosponsoring the Health Freedom Protection Act.